

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|----------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | 8:09CR94 |
| |) | |
| v. |) | |
| |) | |
| FREDY HERNANDEZ-CASTILLO, |) | ORDER |
| |) | |
| Defendant. |) | |
| |) | |

This matter is before the Court on the report and recommendation and order (Filing No. 39) and the amended report and recommendation and order (Filing No. 42) of the magistrate judge, recommending that the motion to suppress (Filing No. 27) be granted in part and denied in part. The Court notes no objections have been filed thereto.

The Court has reviewed the motion to suppress evidence and statements (Filing No. 27), the brief in support of the motion (Filing No. 28), and the plaintiff's brief in opposition thereto (Filing No. 32), as well as the transcript of the hearing (Filing No. 43), and finds that the reports and recommendations of the magistrate judge should be approved and adopted. Accordingly,

IT IS ORDERED:

1) The reports and recommendations of the magistrate judge are approved and adopted. The motion as it pertains to any

statements made by defendant after he was handcuffed and arrested is granted.

2) The motion is denied in all other respects.

3) Trial of this matter is scheduled for:

Monday, November 30, 2009, at 9 a.m.

in Courtroom No. 5, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska, or as soon thereafter as may be called by the Court. This will give the parties time to pursue plea negotiations or prepare for trial, and the ends of justice will be served by continuing this case and outweigh the interests of the public and the defendant in a speedy trial. The additional time between October 15, 2009, and November 30, 2009, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act. 18 U.S.C.

§ 3161(h) (8) (A) & (B) .

DATED this 16th day of October, 2009.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court